

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

IN RE:

Case No. \_\_\_\_\_

MONAUDE DAVERNE,

Debtor,

U.S. Bankruptcy Court Southern District of  
New York (Manhattan) Case No. 08-13555

MONAUDE DAVERNE,

PLAINTIFFS,

U.S Bankruptcy Court Case No.: 14-18239

VS.

DEBTORS' ADVERSARY COMPLAINT FOR  
VIOLATION OF THE AUTOMATIC STAY  
AND VIOLATION OF FALSE CLAIMS ACT

WILMINGTON TRUST, N.A., AS SUCCESSOR  
TRUSTEE TO CITIBANK, N.A., AS TRUSTEE  
TO CITIBANK, N.A., AS TRUSTEE TO  
LEHMAN XS TRUST MORTGAGE PASS-  
THROUGH CERTIFICATES, SERIES 2006-5,  
AND LEHMAN BROTHERS HOLDING D/B/A  
LEHMAN BROTHERS BANK, AND  
NATIONSTAR

1 DEFENDANTS,

2  
3  
4 NOW COME Monaude Daverne, Debtor and for his complaint state as follows:

5 **NATURE OF THE ACTION**

- 6  
7 1. Plaintiff brings this adversary proceeding on behalf of himself under 11 U.S.C.  
8 547(b), 550(a) and 551 to avoid as fraudulent transfers that Defendant made to  
9 Nationstar, during the commencing his respective bankruptcy cases in this Court,  
10 at which time Plaintiff were presumed to have been insolvent. Specifically,  
11 Plaintiff seeks entry of a judgment against the Defendant (i) pursuant to 11 U.S.C.  
12 547(b). Avoiding the fraudulent Corporate Assignment of Deed of Trust Dated  
13 October 13, 2015.  
14

15 **Jurisdictional Statements and Parties**

- 16  
17 1. Plaintiff, Monaude Daverne, are the debtor in the above captioned bankruptcy  
18 case.  
19  
20 2. He commenced this case under Chapter 13 on May 21, 2014.  
21  
22 3. Venue of the bankruptcy case is appropriate in this court pursuant to 28 USS 1408.  
23 Venue of the instant complaint is appropriate pursuant to 28 USC 1409.  
24  
25 4. This court has jurisdiction of the bankruptcy case and this complaint pursuant to 28  
USC 1334.  
5. Pursuant to 28 USC 157, the district court has referred all bankruptcy cases and

1 related proceedings to the bankruptcy judges of this district.

2 6. This is a core proceeding within the meaning of that statute, and the court has  
3 jurisdiction to enter a final judgment.  
4

5 7. Upon information and belief, defendant Lehman Brothers Holding, dba Lehman  
6 Brothers Bank; has a pending bankruptcy case before this court, and has an address  
7 of 1271 Avenue of the Americas STE C2 New York, NY, 10020.  
8

9 8. Upon information and belief, defendant Nationstar Mortgage has an address of  
10 8950 Cypress Waters Boulevard Dallas, TX 75019.

11 9. Upon information and belief, defendant Citibank, N.A., has an address at 388  
12 Greenwich Street, New York, NY 10013.

13 10. Upon information and belief, defendant Wilmington Trust N.A has an address at  
14 111 S Calvert ST #26 Baltimore, MD 21202.  
15

16 **Factual Allegations**

17 11. Mr. Monaude Daverne, is the owner, in fee simple, of the real property, with the  
18 buildings thereon, located at 15742 Easthaven CT #710 Bowie, MD 20716.

19 Hereinafter, references to "the property" mean 15742 Easthaven, CT 7110 Bowie,  
20 MD 20716.  
21

22 12. Defendant caused a fraudulent proof of claim to be filed on July 02, 2014, in the  
23 United States Bankruptcy Court for the District of Maryland (Greenbelt).  
24

25 13. Based on information and belief, Debtor believes that his note and mortgage was

1 given to Lehman Brothers Holding, d/b/a Lehman Brothers Bank in the amount of  
2 187,200.00.

3  
4 **COUNT II**

5 The Assignment dated October 13, 2014, and Certificate of Release Dated August  
6 11, 2015, constituted fraudulent conveyances under Maryland Law.

7  
8 14. A purported Assignment of the Mortgage, dated October 13, 2015, was not  
9 attached to the Proof of Claim. The Assignment is from Nationstar Mortgage LLC,  
10 to Wilmington Trust, N.A. As Successor Trustee to Citibank, N.A. As trustee to  
11 Lehman XS Trust Mortgage Pass-through Certificates, Series 2006-5. The Mortgage  
12 Assignment was EXECUTED while Debtor bankruptcy is pending. This is a direct  
13 violation of the Automatic Stay. Defendant's Wilmington Trust, N.A. and Nationstar  
14 Mortgage LLC, never acquired jurisdiction on this court.  
15

16 15. Plaintiff conducted his own investigations in furtherance of a False Claim Act qui  
17 tam action and found that the Defendants pursued and continue to pursue  
18 foreclosure actions against the Plaintiff, using false and fabricated documents,  
19 particularly mortgage assignments. See Exhibit "A" (Corporate Assignment of Deed  
20 of Trust dated October 13, 2015).  
21

22 16. Defendants used these fraudulent mortgage assignment to gain jurisdiction over  
23 this court. Defendants does not have any lawfully executed mortgage assignments,  
24 and never acquired proper jurisdiction. The fraud carried out by the Defendants in  
25

1 this case includes, inter alia:

- 2 a. Mortgage assignments with forged signatures of the individuals signing on  
3 behalf of the grantors;  
4  
5 b. Mortgage assignment prepared and signed by individuals as corporate officers  
6 without any authority from the bankruptcy court;  
7  
8 c. Mortgage assignments prepared with purported effective dates, while the  
9 Plaintiff Chapter 13 Petition is pending before this court.  
10  
11 d. Mortgage assignments prepared on behalf of grantors who had never  
12 themselves acquired ownership of the mortgages and notes by a valid transfer,  
13 until Plaintiff filed this Chapter 13 Petition.

14 17. The Note submitted with Defendants Proof of Claim fails to comply with the UCC  
15 as is fails to state that Either Nationstar or WILMINGTON TRUST, N.A., AS  
16 SUCCESSOR TRUSTEE TO CITIBANK, N.A., AS TRUSTEE TO CITIBANK, N.A., AS  
17 TRUSTEE TO LEHMAN XS TRUST MORTGAGE PASS-THROUGH CERTIFICATES,  
18 SERIES 2006-5, **ever had possession of the Note and the purported**  
19 **Assignments of Mortgage occurred After Plaintiff filed for Chapter 13,**  
20 **protection. In violation of the automatic stay.**

21  
22 18. **It is also unclear from a review of the loan in this alleged trust as to whether**  
23 **in fact, this loan was ever, in fact, transferred to the Trust.**  
24

25 **COUNT II**

**(The Avoidable Transfers)**

19. On July 02, 2014, Nationstar Mortgage LLC filed a Proof of Claim in Debtor's Chapter 13 proceeding listing the creditor as Nationstar Mortgage LLC.

20. On or about December 02, 2015, without any notice to the Plaintiff/Debtor, Wilmington Trust N.A. filed a Motion for Relief from Stay.

21. Debtor is objecting to the Proof of Claim on the basis of standing.

22. There is nothing to indicate that Nationstar Mortgage LLC has any power to convey mortgages or negotiate mortgage notes to the trust.

23. The Avoidable Transfer were made at a time when, pursuant to section 547(f) of the Bankruptcy Code, Plaintiff are presumed to have been insolvent.

24. At the time Defendant made the Avoidable Transfers their agents, the debts and liabilities of Plaintiff were unsecured obligations. The Avoidable Transfers thus enabled the Defendants to receive more in satisfaction of its claim against Plaintiff than it would have received in a case under chapter 13.

WHEREFORE, Debtor request that the court enter judgment finding any claims filed on behalf of this creditor be disallowed; and that the security interests be deemed void pursuant to 11 USC 506(d); or in the alternative declaring the identity of the actual holder of the mortgage and note, compelling the holder to provide them with a complete accounting of the obligation; and such other or different relief as may be appropriate to the facts as determined at trial.

---

MONAUDE DAVERNE, 01/20/2016

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished

by U.S. Mail on this 20<sup>th</sup> day of January 2016, to

Kristine D. Brown, Esquire  
LAW OFFICES OF SHAPIRO & BROWN, LLP  
10021 BALLS FORD ROAD, SUITE 200  
MANASSAS, VIRGINIA 20109

NANCY SPENCER GRIGSBY, TRUSTEE  
4201 MITCHELLVILLE ROAD SUITE 401  
BOWIE, MD 20716

CHOICE MANAGEMENT INC.  
500 NEW JERSEY AVE NW 400  
WASHINGTON, DC 20016  
Phone: 678-922-2885  
**JAMES@ROZAHERZOGBERGER.COM**

---

MONAUDE DAVERNE, 01/20/2016

# **EXHIBIT "A"**

## **CORPORATE ASSIGNMENT OF DEED OF TRUST**

**DATED**

**OCTOBER 13, 2015**



Clerk of the  
Circuit Court

2015 OCT 13 PM 2:18

PR GEO CO MD #82

37487 303  
Recording Requested By:  
Nationstar Mortgage

When Recorded Return To:

DOCUMENT ADMINISTRATION  
Nationstar Mortgage  
8950 CYPRESS WATERS BLVD  
COPPELL, TX 75019

**CORPORATE ASSIGNMENT OF DEED OF TRUST**

Prince George's, Maryland  
SELLER'S SERVICING #:0599870094 "DAVERNE"

Date of Assignment: September 23rd, 2015  
Assignor: NATIONSTAR MORTGAGE LLC at 8950 CYPRESS WATERS BLVD, COPPELL, TX 75019  
Assignee: WILMINGTON TRUST, NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO  
CITIBANK, N.A., AS TRUSTEE TO LEHMAN XS TRUST MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2006-5 at 401 PLYMOUTH ROAD, PLYMOUTH MEETING, PA 19462

Executed By: MONAUDE DAVERNE To: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
AS NOMINEE FOR LEHMAN BROTHERS BANK, FSB, A FEDERAL SAVINGS BANK  
Date of Deed of Trust: 02/16/2006 Recorded: 01/12/2007 in Book/Reel/Liber: 26840 Page/Folio: 035 In  
the County of Prince George's, State of Maryland.

Property Address: 15742 EASTHAVEN COURT 710, BOWIE, MD 20716

KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration, the receipt and  
sufficiency of which is hereby acknowledged, the said assignor hereby assigns unto the above-named  
assignee, the said Deed of Trust having an original principal sum of \$187,200.00 with interest, secured  
thereby, and the full benefit of all the powers and of all the covenants and provisos therein contained, and  
the said assignor hereby grants and conveys unto the said assignee, the assignor's interest under the  
Deed of Trust.

TO HAVE AND TO HOLD the said Deed of Trust, and the said property unto the said assignee forever,  
subject to the terms contained in said Deed of Trust.

IN WITNESS WHEREOF, the assignor has executed these presents the day and year first above  
written:

NATIONSTAR MORTGAGE LLC  
On SEP 24 2015

By: Michelle Bowles  
MICHELLE BOWLES, Assistant Secretary

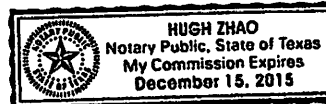
IMP FD SURE \$	48.00
RECORDING FEE	20.00
TOTAL	68.00
Res# PC06	Rcpt # 3193
SJH AH	Blk # 2003
Oct 13, 2015	02:19 PM

STATE OF Texas  
COUNTY OF Dallas

On SEP 24 2015, before me, HUGH ZHAO, a Notary Public in and for Dallas in the State of Texas,  
personally appeared MICHELLE BOWLES, Assistant Secretary, personally known to me (or proved to me  
on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal,

Hugh Zhao  
HUGH ZHAO  
Notary Expires: 12/15/15



(This area for notarial seal)

PRINCE GEORGE'S COUNTY CIRCUIT COURT (Land Records) SJH 37487, p. 0303, MSA\_CE64\_37796. Date available 10/20/2015. Printed 01/24/2016.

## **EXHIBIT "B"**

**CERTIFICATE OF RELEASE  
DATED AUGUST 11, 2015**

\*MS9\*GESCITM\*06/22/2015 01:18:00 AM\* CITM01CITM00000000000000008301901\* MDPRNC\* 0770919220 MDSTATE TRUST REL TS7\*TS7CITM

IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK (MANHATTAN)

IN RE:

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22 16. Defendants used these fraudulent mortgage assignment to gain jurisdiction over  
23 this court. Defendants does not have any lawfully executed mortgage assignments,  
24 and never acquired proper jurisdiction. The fraud carried out by the Defendants in  
25

1 this case includes, inter alia:

- 2 a. Mortgage assignments with forged signatures of the individuals signing on  
3 behalf of the grantors;  
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5 b. Mortgage assignment prepared and signed by individuals as corporate officers  
6 without any authority from the bankruptcy court;  
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8 c. Mortgage assignments prepared with purported effective dates, while the  
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25 **COUNT II**



**(The Avoidable Transfers)**

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21. Debtor is objecting to the Proof of Claim on the basis of standing.

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24. At the time Defendant made the Avoidable Transfers their agents, the debts and liabilities of Plaintiff were unsecured obligations. The Avoidable Transfers thus enabled the Defendants to receive more in satisfaction of its claim against Plaintiff than it would have received in a case under chapter 13.

WHEREFORE, Debtor request that the court enter judgment finding any claims filed on behalf of this creditor be disallowed; and that the security interests be deemed void pursuant to 11 USC 506(d); or in the alternative declaring the identity of the actual holder of the mortgage and note, compelling the holder to provide them with a complete accounting of the obligation; and such other or different relief as may be appropriate to the facts as determined at trial.

  
\_\_\_\_\_  
MONAUDE DAVERNE, 01/20/2016

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished  
by U.S. Mail on this 20<sup>th</sup> day of January 2016, to

Kristine D. Brown, Esquire  
LAW OFFICES OF SHAPIRO & BROWN, LLP  
10021 BALLS FORD ROAD, SUITE 200  
MANASSAS, VIRGINIA 20109

NANCY SPENCER GRIGSBY, TRUSTEE  
4201 MITCHELLVILLE ROAD SUITE 401  
BOWIE, MD 20716

CHOICE MANAGEMENT INC.  
500 NEW JERSEY AVE NW 400  
WASHINGTON, DC 20016  
Phone: 678-922-2885  
**JAMES@ROZAHERZOGBERGER.COM**

  
\_\_\_\_\_  
MONAUDE DAVERNE, 01/20/2016

## **EXHIBIT "A"**

# **CORPORATE ASSIGNMENT OF DEED OF TRUST**

**DATED**

**OCTOBER 13, 2015**

Clerk of the  
Circuit Court

2015 OCT 13 PM 2:18

PR GEO CO MD #82

37487 303  
Recording Requested By:  
Nationstar Mortgage

When Recorded Return To:

DOCUMENT ADMINISTRATION  
Nationstar Mortgage  
8950 CYPRESS WATERS BLVD  
COPPELL, TX 75019

**CORPORATE ASSIGNMENT OF DEED OF TRUST**

Prince George's, Maryland  
SELLER'S SERVICING #:0599970094 "DAVERNE"

Date of Assignment: September 23rd, 2015  
Assignor: NATIONSTAR MORTGAGE LLC at 8950 CYPRESS WATERS BLVD, COPPELL, TX 75019  
Assignee: WILMINGTON TRUST, NATIONAL ASSOCIATION, AS SUCCESSOR TRUSTEE TO  
CITIBANK, N.A., AS TRUSTEE TO LEHMAN XS TRUST MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2006-5 at 401 PLYMOUTH ROAD, PLYMOUTH MEETING, PA 19462

Executed By: MONAUDE DAVERNE To: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.  
AS NOMINEE FOR LEHMAN BROTHERS BANK, FSB, A FEDERAL SAVINGS BANK  
Date of Deed of Trust: 02/16/2006 Recorded: 01/12/2007 in Book/Reel/Liber: 26840 Page/Folio: 035 In  
the County of Prince George's, State of Maryland.

Property Address: 15742 EASTHAVEN COURT 710, BOWIE, MD 20716

KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration, the receipt and  
sufficiency of which is hereby acknowledged, the said assignor hereby assigns unto the above-named  
assignee, the said Deed of Trust having an original principal sum of \$187,200.00 with interest, secured  
thereby, and the full benefit of all the powers and of all the covenants and provisos therein contained, and  
the said assignor hereby grants and conveys unto the said assignee, the assignor's interest under the  
Deed of Trust.

TO HAVE AND TO HOLD the said Deed of Trust, and the said property unto the said assignee forever,  
subject to the terms contained in said Deed of Trust.

IN WITNESS WHEREOF, the assignor has executed these presents the day and year first above  
written:

NATIONSTAR MORTGAGE LLC  
On SEP 24 2015

By: Michelle Bowles  
MICHELLE BOWLES, Assistant Secretary

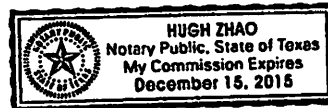
TRP FD SURE \$	48.00
RECORDING FEE	20.00
TOTAL	68.00
Rest PC06	Rept # 3193
SJH AH	Blk # 2883
Oct 13, 2015	02:19 PM

STATE OF Texas  
COUNTY OF Dallas

On SEP 24 2015, before me, HUGH ZHAO, a Notary Public in and for Dallas in the State of Texas,  
personally appeared MICHELLE BOWLES, Assistant Secretary, personally known to me (or proved to me  
on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within  
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized  
capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of  
which the person(s) acted, executed the instrument.

WITNESS my hand and official seal,

Hugh Zhao  
HUGH ZHAO  
Notary Expires: 12/15/15



(This area for notarial seal)

## **EXHIBIT "B"**

**CERTIFICATE OF RELEASE  
DATED AUGUST 11, 2015**

**Clerk of the  
Circuit Court**

**Recording Requested By:**  
**VERDUGO TRUSTEE SERVICE CORPORATION**

2015 AUG 11 PM 1:38

**When Recorded Return To:**

PR GEO CO MD #39

**MONAUDE DAVERNE  
15742 EASTHAVEN COURT 710  
BOWIE, MD 20716**

## Certificate of Release

**CITIMORTGAGE, INC. #:0770919220 "DAVERNE" Lender ID:101 Prince George's, Maryland**  
**KNOW ALL MEN BY THESE PRESENTS:**

That CITIMORTGAGE, INC. does hereby acknowledge that the indebtedness secured by a certain Deed of Trust made by MONAUDE DAVERNE to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. and Dated: 02/16/2006 and recorded 01/12/2007 among the land records of Prince George's County/City Maryland, in Book/Reel/Liber: 26840 Page/Folio: 055 as Instrument No.: N/A, has been fully paid and discharged, that CITIMORTGAGE, INC. was, at the time of release, the present Beneficiary of said Deed of Trust, and that the lien of the Deed of Trust is hereby released.

**Property Address: 15742 EASTHAVEN COURT 710, BOWIE, MD 20716**

**Witness the hand and seals of the present Beneficiary of said Deed of Trust below on date as indicated.**

In witness whereof, the present Beneficiary of said Deed of Trust has caused this instrument to be executed in its behalf by its agent.

**CITIMORTGAGE, INC.**  
**On July 6th, 2015**

TRF FD SURE \$	40.00
REDROWING FEE	10.00
TOTAL	50.00
Rest PCBA	Rest # 76490
SJH CON	Blk # 998
Aug 11, 2015	01:39 PM

By: PATRICIA DEAN  
PATRICIA DEAN, VICE PRESIDENT

**STATE OF Maryland**  
**COUNTY OF Washington**

On this 6th day of July 2015, before me, the undersigned officer personally appeared PATRICIA DEAN, who made acknowledgment on behalf of CITIMORTGAGE, INC., who acknowledges himself/herself to be the VICE PRESIDENT of CITIMORTGAGE, INC., a corporation, and that he/she as such VICE PRESIDENT, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as VICE PRESIDENT.

**WITNESS my hand and official seal,**

**JESSICA L. SCHROYER**  
Notary Expires: 02/22/2017

**Jessica L. Schroyer**  
Notary Public  
Washington Co., MD  
My Commission Expires Feb. 22, 2017

**(This area for notarial seal)**